

# **CITY OF ROSENBERG**

## **REGULAR CITY COUNCIL MEETING MINUTES**

On this the 6th day of September, 2016, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

**Present:** Cynthia A. McConathy, Mayor  
William Benton, Councilor at Large, Position 1  
Amanda J. Barta, Councilor at Large, Position 2  
Jimmie J. Pena, Councilor, District 1  
Susan Euton, Councilor, District 2  
Alice Jozwiak, Councilor, District 3  
Lynn Moses, Councilor, District 4

**Staff Present:** Scott M. Tschirhart, City Attorney  
Linda Cernosek, City Secretary  
John Maresh, Interim City Manager  
Joyce Vasut, Executive Director of Administrative Services  
Travis Tanner, Executive Director of Community Development  
Charles Kalkomey, City Engineer  
Tonya Palmer, Building Official  
Lori Remington, Human Resources Director  
Dallis Warren, Police Chief  
Tracie Dunn, Assistant Police Chief  
Wade Goates, Fire Chief  
Justin Jurek, Fire Marshal  
Randall Malik, Economic Development Director  
Rigo Calzoncin, Public Works Director  
Danyel Swint, Executive Assistant  
Jenny Pavlovich, Communications Manager  
Luis Garza, Finance Manager  
Nicole Emidy, Police Officer  
Richard Olson, Fleet Mechanic  
Joseph Rogers, Police Sergeant  
Justin Rodgers, Police Officer  
Eric Marmol, Police Officer

**Call to order:** City Hall Council Chamber  
Mayor McConathy called the meeting to order at 7:02 p.m.

**Invocation and Pledge of Allegiance.**

Reverend Daniel Haas, St. John's United Church of Christ, Rosenberg, gave the invocation and Boy Scout Troop #801 led the pledge of allegiance to the flag.

### **Presentation of Rosenberg Image Committee Beautification and Renovation Awards.**

Councilor at Large, Position 1 William Benton presented the Rosenberg Image Committee Beautification and Renovation Awards to:

- Landscape:
  - Akber and Tasennm Bhimjee, 1809 Callaway Cove Court
  - Jimmy Jackson, 4720 Greenwood Drive
  - Lana Kulpa, 1319 Carlisle Street
  - Jose and Seka Martel, 1142 Dessert Willow Lane
- Renovation:
  - CRG Texas Environmental Services, Inc., Kevin and Nubia Casler, 2504 Avenue I
  - Edgar Soriano and Sonia Lucio Tovar, 910 7th Street

### **Announcements.**

Councilor Barta announced the adoption event at the Rosenberg Animal Shelter from 10:00 a.m. to 2:00 p.m., Saturday, September 10, 2016 at 1207 Blume Road, Rosenberg. Boy Scout Troop #127 will be grilling hot dogs and hamburgers for \$5 per plate. Councilor Barta also invited first responders and their families to a special program and service on Sunday, September 11, 2016 at 10:45 a.m. at the Calvary Baptist Church in Rosenberg. Everyone is invited.

### **GENERAL COMMENTS FROM THE AUDIENCE.**

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

### **COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.**

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

### **CONSENT AGENDA**

#### **1. Review of Consent Agenda.**

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

- A. **Consideration of and action on Workshop Meeting Minutes for August 06, 2016, Special Meeting Minutes for August 08, 2016, and Regular Meeting Minutes for August 16, 2016.**
- B. **Consideration of and action on the proposed placement of two (2) pole-mounted radar speed signs along 4th Street near Parrott Avenue.**

#### **EXECUTIVE SUMMARY**

This Agenda item has been included to allow for City Council authorization and approval for the proposed installation of two (2) pole-mounted radar speed signs along 4th Street, generally in the vicinity of Parrott Avenue, as requested by Councilor Benton. If approved, said installations would be completed by the Public Works Department.

- C. **Consideration of and action on an Amending Plat of Stonecreek Estates Section One Amending Plat No. 1, a subdivision of 76.47 acres of land out of the Wiley Martin Survey, A-56, Fort Bend County, Texas; 185 lots, 8 reserves, 9 blocks.**

**EXECUTIVE SUMMARY**

Proposed Stonecreek Estates Section One Amending Plat No. 1 is located in Fort Bend County Municipal Utility District No. 184, in the southeast corner of the subdivision. The Plat is located in the Extraterritorial Jurisdiction (ETJ) with the exception of a portion of the City Limits abutting Dry Creek.

The Plat contains 185 lots, eight (8) reserves, and nine (9) blocks and a total of 76.47 acres. The property was originally platted in 2015. The purpose of the Amending Plat is simply to update a plat note in regards to slab elevation. The "Subdivision" Ordinance provides for amending plats to resolve issues of this nature. The Plat only has to come before City Council; amending plats do not require Planning Commission approval. There being no further issues, staff recommends approval of Stonecreek Estates Section One Amending Plat No. 1.

- D. **Consideration of and action on a Final Plat of Walnut Creek Benton Road Street Dedication and Reserve, a subdivision of 1.761 acres (0.572 acres within the City of Rosenberg and 1.189 acres within the ETJ of the City of Rosenberg) containing 0 lots, 1 block and 1 restricted reserve out of the Wiley Martin League, A-56, the City of Rosenberg, Fort Bend County, Texas.**

**EXECUTIVE SUMMARY** The Final Plat of Walnut Creek Benton Road Street Dedication and Reserve is a proposed right-of-way dedication plat consisting of 1.761 acres. It is located both in the City Limits and in the City's Extraterritorial Jurisdiction (ETJ). It adjoins Walnut Creek Section Twelve and future/proposed Section Sixteen, and will connect to the existing Benton Road and Irby Cobb Boulevard intersection to the immediate north.

The Final Plat is consistent with the street layout per the approved Land Plan; will provide access further south into the development, across Dry Creek in particular; and will facilitate Benton Road's eventual connection to Ricefield Road to the south.

The Planning Commission recommended approval to City Council of the Final Plat of Walnut Creek Benton Road Street Dedication and Reserve on July 20, 2016. Seeing no conflicts with applicable regulations, staff recommends approval of the Final Plat of Walnut Creek Benton Road Street Dedication and Reserve.

**ACTION**

Motion by Councilor, District 4 Lynn Moses, seconded by Councilor at Large, Position 1 William Benton to approve the Consent Agenda Items.

**VOTE:** 7 - 0 Carried - Unanimously

**REGULAR AGENDA**

2. **Hold second public hearing on a Strategic Partnership Agreement by and between the City and Fort Bend County Municipal Utility District No. 155 (Bonbrook Plantation).**

**EXECUTIVE SUMMARY**

As discussed at the August 16, 2016 Regular City Council Meeting, when the City and Fort Bend County MUD No. 155 (Bonbrook Plantation) agreed to modify the Utility Agreement on March 15, 2016, to provide for additional connections/development, the City and District agreed at that time to pursue a Strategic Partnership Agreement (SPA) between the parties. The amended Utility Agreement (Resolution No. R-2124) is attached for review (see Section 8 and Exhibit F in particular). The District has held the required public hearings and approved the SPA, and the City must now do the same in order for it to take effect. The first public hearing was held on August 16, 2016, and this Agenda item constitutes the second required hearing.

As discussed, for City Council's information, Chapter 43 of the Texas Local Government Code provides for cities and utility districts to enter into SPAs. An SPA sets forth terms for future annexation of the

District. In general, it provides that the City will not annex the District prior to build-out, except that commercial property may be annexed for limited purposes such as sales tax revenue. Therefore there is a mutual benefit to the City and District entering into such an agreement. The District would not be annexed for some time; however, when that time elapses, the City is not required to include the District in an annexation plan, etc., which makes the process seamless because annexation terms have been agreed on in advance. This is commonly how annexation of utility districts is handled in Texas, including in Fort Bend County, per State law, as opposed to not going about it systematically.

Again, this Agenda item is the second of two (2) public hearings the City is required to hold.

Consideration of and action on the SPA itself is immediately after this item on the Agenda. Notice has been placed in the Fort Bend Herald in accordance with State law. The notice is attached for reference.

No members of the public came forward to speak at the first hearing. Staff recommends holding the final hearing at this time. Further details of the SPA are included in the following Agenda item.

#### **KEY DISCUSSION POINTS**

- Travis Tanner read the Executive Summary.
- Mayor McConathy opened the Public Hearing for comments at 7:12:15 p.m.
- There were no comments and Mayor McConathy closed the Public Hearing at 7:12:28 p.m.

3. **Consideration of and action on Resolution No. R-2217, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Strategic Partnership Agreement, by and between the City and Fort Bend County Municipal Utility District No. 155 (Bonbrook Plantation).**

#### **EXECUTIVE SUMMARY**

As discussed in the previous Agenda item, the subject Strategic Partnership Agreement (SPA) between the City and Fort Bend County MUD No. 155 (Bonbrook Plantation) is proposed pursuant to previous agreements between the parties as well as State law (Ch. 43, Local Government Code). It generally provides that the City may not fully annex the District prior to the earlier of 1) the development of water, sanitary sewer and drainage facilities to serve 90% of the developable acreage in the District, or 2) 10 years from the effective date of the SPA. Once one of these conditions is met, the City may, but is not required to, annex the District for full purposes.

The SPA also provides that the City may at any time annex commercial property in the District for limited purposes such as the imposition and collection of the City's sales and use tax. Therefore, the SPA mutually benefits both the City and the District by providing that the District may develop with some amount of clarity regarding the timing of potential future annexation by the City while the City collects its sales and use tax from the District's commercial properties. Also, by entering into the SPA, the City is not required to include the District in its annexation plan, etc., which makes the process of future annexation of the District seamless because annexation terms have been agreed on in advance.

The proposed SPA is attached for review as Exhibit "A" to Resolution No. R-2217. Staff recommends approval of Resolution No. R-2217.

#### **KEY DISCUSSION POINTS**

- Travis Tanner read the Executive Summary.
- Councilor Benton asked if this MUD 155 meets within the boundaries of their jurisdiction.
- City Attorney Scott Tschirhart confirmed they meet within their boundaries.

#### **ACTION**

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2217 and authorize the Mayor to execute, for and on behalf of the City, a Strategic Partnership Agreement, by and between the City and Fort Bend County Municipal Utility District No. 155 (Bonbrook Plantation).

**VOTE:** 7 - 0 Carried - Unanimously

4. **Consideration of and action on Ordinance No. 2016-27, an Ordinance granting consent to the Fort Bend County Municipal Utility District No. 158 (River Run at the Brazos and Rivers Mist) for the sale and issuance of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$1,995,000, and Unlimited Park Bonds, Series 2016A, in an amount not to exceed \$1,330,000.**

#### **EXECUTIVE SUMMARY**

Attached for City Council's consideration is Ordinance No. 2016-27 granting the City's consent to Fort Bend County Municipal Utility District (MUD) No. 158 (River Run at the Brazos and Rivers Mist), to sell Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$1,995,000, and Unlimited Park Bonds, Series 2016A, in an amount not to exceed \$1,330,000. MUD No. 158 is located in the City's Extraterritorial Jurisdiction (ETJ), at the southwest corner of Reading and Benton Roads. A location map is attached for review.

City Council consented to the creation of MUD No. 158 on December 14, 2004, through Ordinance No. 2004-29, and which was originally proposed as a 158.54-acre development. The Water Supply and Wastewater Services and Development Agreements between the City and Ventana Development Reading, LP, were executed on February 22, 2005. City Council approved Ordinance No. 2006-19 on August 15, 2006, consenting to the addition of approximately 59 acres. MUD No. 158 now is comprised of approximately 217.5 acres.

Following is a list of Unlimited Tax Bond Sales that have been previously approved by City Council:

- Ordinance No. 2007-35 – City Council approved the District's first sale on August 21, 2007, in the amount of \$1,460,000.
- Ordinance No. 2009-29 – City Council approved the District's second sale on August 18, 2009, in the amount of \$1,870,000.
- Ordinance No. 2011-16 – City Council approved the District's third sale on June 21, 2011, in the amount of \$1,400,000.
- Ordinance No. 2012-15 – City Council approved the District's fourth sale on April 17, 2012, in the amount \$1,600,000.
- Ordinance No. 2013-14 – City Council approved the District's fifth sale on February 19, 2013, in the amount of \$1,600,000.
- Ordinance No. 2014-16 – City Council approved the District's sixth sale on April 15, 2014, in the amount of \$1,650,000.
- Ordinance No. 2015-09 – City Council approved the District's seventh sale on March 03, 2015, in the amount of \$1,935,000.

The District was authorized to sell \$16,100,000 in Water, Wastewater, and Drainage Bonds and \$10,000,000 of Refunding Bonds on 9/10/05. On 11/08/05, the District was granted authorization for an additional \$4,600,000 in Water, Wastewater, and Drainage Bonds and \$4,733,500 in Recreational Facilities Bonds. The District has a total authorized bonding capacity for Water, Wastewater, and Drainage Bonds in the amount of \$20,700,000.

The District has issued a total of \$11,515,000 in Water, Wastewater, and Drainage Bonds. After the sale of the proposed \$1,995,000 of bonds, the District will have remaining bonding capacity of \$7,190,000. Of the bonds sold, the remaining balance due is \$11,025,000.

After the sale of the proposed \$1,330,000 in Recreational Facility Bonds, the District will have a remaining bonding capacity of \$3,403,500 of these bonds.

The District tax rate from 2011-2013 was \$1.45/\$100 valuation. In 2014, it was lowered to \$1.39/\$100 valuation, and in 2015, it was reduced to \$1.25/\$100 valuation. The projected tax rate after this sale is proposed to remain at the current tax rate.

This will be the eighth bond sale for MUD No. 158. Submission documentation for this sale - the Official Statement/Notice of Sale, Texas Commission on Environmental Quality (TCEQ) submission documentation, minute excerpts, associated agreements, and previous bond sale and related Ordinances are available for review in the City Secretary's Office. Staff has reviewed the documentation and found it to be in compliance with applicable City Ordinances. Staff is recommending approval of Ordinance No. 2016-27 thus authorizing the bond issue to proceed.

## KEY DISCUSSION POINTS

- Travis Tanner read the Executive Summary.
- Councilor Moses asked about the Parks bond portion of this Ordinance.
- Travis Tanner explained the previous agreement included park facilities.
- Travis Tanner introduced Greg Lenz of First Southwest to answer any questions from Council.
- Councilor Benton asked about transparency for this MUD District.
- Greg Lenz explained the Board of five meets monthly (first Wednesday of the month) at 5:30 p.m. at the Si Environmental building at 6420 Reading Road, Rosenberg. The District holds staggered elections every four years. The meeting agendas are posted seventy-two hours prior to the meeting on the recreation center bulletin board. Mr. Lenz also reported the tax rate will go down from \$1.25 to \$1.12/\$100 valuation.
- Councilor Pena commented this is also controlled by the TCEQ which sets the limits on tax to \$1.55/\$100 valuation. Councilor Pena added utility bonds are lucrative and many people invest in these because bonds have a good return on the investment.

## ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 3 Alice Jozwiak to approve Ordinance No. 2016-27, granting consent to the Fort Bend County Municipal Utility District No. 158 (River Run at the Brazos and Rivers Mist) for the sale and issuance of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$1,995,000, and Unlimited Park Bonds, Series 2016A, in an amount not to exceed \$1,330,000.

**VOTE:** 7 - 0 Carried - Unanimously

5. **Consideration of and action on Resolution No. R-2219, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Fire Protection Agreement, by and between the City and Fort Bend County Municipal Utility District No. 184 (Stonecreek Estates).**

## EXECUTIVE SUMMARY

Fort Bend County Municipal Utility District (MUD) No. 184, commonly referred to as Stonecreek Estates, would like to enter into a Fire Protection Agreement (Agreement) with the City of Rosenberg. Currently, the Fire Department responds to the area where MUD No. 184 is located so this Agreement would not increase the territory.

Once the Agreement is executed, MUD No. 184 would then need to draft a Fire Protection Plan. The Fire Protection Plan, which includes the Fire Protection Agreement, is sent to the Texas Commission on Environmental Quality (TCEQ) for review and approval. After approval of the Fire Protection Plan by TCEQ, MUD No. 184 must hold an election for voter approval of the Fire Protection Plan.

Staff recommends approval of Resolution No. R-2219, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Fire Protection Agreement, by and between the City and Fort Bend County Municipal Utility District No. 184 (Stonecreek Estates).

## KEY DISCUSSION POINTS

- Wade Goates read the Executive Summary.
- Councilor Euton asked if this area was built out and when the election would be held.
- Mr. Goates was not sure of the time table, but the residents will receive a level of service that other citizens of Rosenberg receive.
- Councilor Benton asked for clarification to the amount each resident will pay (\$360.00 per year) and if the City of Rosenberg is still reimbursed by the Fort Bend County for service calls in these areas.
- Mr. Goates explained that once those areas enter into the fire protection agreement, Fort Bend County no longer reimburses the City through the Interlocal Agreement.
- Councilor Moses asked about page 3 (b) of the agreement and Mr. Goates stated the City will service those areas according to the State standards.
- Mayor McConathy asked about Page 2 and Page 4 (b). She asked that Page 2 Section 3 (a) be corrected that we no longer have a third station under construction.

- Jeanne McDonald explained that the dates on Page 4 Section 7 (b) were correct as in the model fire agreement.
- Mayor McConathy asked if the City is flushing fire hydrants and Mr. Goates said their own utility would flush the hydrants.

### **ACTION**

Motion by Councilor, District 4 Lynn Moses, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2219, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Fire Protection Agreement by and between the City and Fort Bend County Municipal Utility District No. 184 (Stonecreek Estates) with the corrected language in Section 3 - Facilities and Equipment - "**with a third under construction**" should be omitted.

**VOTE:** 7 - 0 Carried - Unanimously

6. **Consideration of and action on Resolution No. R-2222, a Resolution authorizing issuance of Fort Bend County Municipal Utility District No. 94 (which includes Villages of Town Center) Unlimited Tax Refunding Bonds, Series 2016, in an amount not to exceed \$2,565,000.00.**

### **EXECUTIVE SUMMARY**

Attached for City Council's consideration is Resolution No. R-2222, a Resolution granting the City's consent to Fort Bend County Municipal Utility District No. 94 (MUD No. 94), which includes the Villages of Town Center, to issue Unlimited Tax Refunding Bonds, Series 2016, in an amount not to exceed \$2,565,000. Ms. Bersch of Schwartz, Page & Harding, L.L.P., Attorneys for MUD No. 94, has requested City Council's review and approval of the issuance of refunding bonds in order to take advantage of the current low interest rates.

City Council consented to the creation of MUD No. 94 on July 2, 1985, through Resolution No. R-158 which was originally proposed as a 284.7482 acre development. A Utility Agreement was executed on December 02, 1986. Following is a list of Unlimited Tax Bond Sales and bond refunding that have been previously issued by MUD No. 94:

- First sale of Unlimited Tax Bonds, Series 1996 in the amount of \$2,030,000.
- Second sale of Unlimited Tax Bonds, Series 1999 in the amount of \$775,000.
- Third sale of Unlimited Tax Bonds, Series 2002 in the amount of \$1,300,000.
- Fourth sale of Unlimited Tax Bonds, Series 2004 in the amount of \$1,440,000.
- Fifth sale of Unlimited Tax Bonds, Series 2007 in the amount of \$2,175,000.
- Sixth sale of Unlimited Tax Bonds, Series 2009 in the amount of \$980,000.
- Unlimited Tax Refunding Bonds, Series 2012, in an amount not to exceed \$3,200,000.

MUD No. 94 has the opportunity to "refund" or "refinance" portions of existing bonds by issuing new bonds at a lower rate of interest than the existing bonds, thus ensuring significant reduction in interest expense for the issuer. MUD No. 94's Financial Advisor, Ms. Shelton with FirstSouthwest, has provided a letter confirming that the refunding bonds are structured to comply with the City's policies for refunding. Staff has reviewed the request and associated documentation and finds that the refunding to be advantageous to MUD No. 94 and its taxpayers.

Submission documentation for this sale and other associated documentation is available for review in the City Secretary's Office.

Staff recommends approval of Resolution No. R-2222, regarding the issuance by Fort Bend Municipal Utility District No. 94 of Unlimited Tax Refunding Bonds, Series 2016, in an amount not to exceed \$2,565,000.

### **KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Linda Cernosek read the rules for audience comments.
- The following two residents of MUD No. 94 addressed Council as follows:
- **Troyce Bennett, 1217 Law Court, Rosenberg, Texas**, addressed concerns that the MUD No. 94 Directors do not meet in Rosenberg where the residents of the District can attend the

meetings. Mr. Bennett also is concerned the amount of revenue collected over two years (over \$2,000,000) and the bonds are still not paid off. Commercial properties are also a part of this MUD No. 94, and he asked why the residents are required to pay for the commercial properties also. He asked the Council to vote "no" on this Resolution.

- **Fred Maynard, 1604 Hemsley Drive, Rosenberg, Texas**, addressed the concern that MUD No. 94 District put in four retention ponds in 1995 and has done nothing since that time for the citizens living in the District.
- Mayor McConathy asked City Attorney Scott Tschirhart to discuss the Council Members' rights on this item.
- Scott Tschirhart explained the MUDs are formed under Chapter 54 of the Texas Water Code. When a MUD is formed, the City has the ability to put certain conditions on the District. This particular MUD No. 94 has no condition for the meeting place. The members that live in the MUD can petition to have the meeting place changed. Currently the City requires any MUD to hold meetings in Fort Bend County per City Ordinance. This MUD predates City Ordinance. As long as this District met all of the conditions, the Council has no power to do anything other than approve the bond.
- Martha Bersch, 2713 Wroxten Road, Houston, Texas, Attorney for the MUD No. 94, came forward to answer questions from the Council.
- Ms. Bersch named the Board Members of the MUD No. 94 at Councilor Benton's request. Sean Gutierrez, President of the Board, Agapito Gaytan, Cleo Holguin, Ken Bartling, and JoAnn Hartfiel.
- Ms. Bersch assured Council the Directors of MUD No. 94 plan to meet at the Rosenberg Civic Center in the future and only meet on an "as needed" basis, not monthly.
- Debbie Shelton, 13018 Conifer Road, Houston, Texas, First Southwest Financial Advisor for MUD No. 94, reported a 6.68% savings on most recent reports from the financials which is a gross savings of \$460,000. She also reported the debt will expire in 2029. She stated commercial tracts pay MUD taxes as well as the residents living in the District.
- Councilor Barta stated she lives in this MUD and her property has paid nearly \$20,000 in MUD taxes. She further stated she has never received any notice of meeting date, time, place, financial reports, etc. She also stated there will be a petition filed asking the MUD to have their meetings in Rosenberg at a time of day the residents can attend the meetings.
- Councilor Jozwiak encouraged the District to notify the residents of their meeting times and move the meetings to Rosenberg.
- Councilor Pena said MUDs are run very well as a rule. Subdivisions have to have the MUDs for water and utilities. It is hard to understand the ramifications of the residents living in the District, but this is a difficult matter to work through for the City.
- Councilor Euton agreed with other comments and stated this has been a problem for quite some time. Looking at the current authorization, this is a net savings for the citizens and the date of payoff is not being extended any further out.
- Mayor McConathy suggested the District use the "Next Door" social media to post meeting times, place, and agenda in an effort to be transparent.

#### **ACTION**

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2222, a Resolution authorizing issuance of Fort Bend County Municipal Utility District No. 94 (which includes Villages of Town Center) Unlimited Tax Refunding Bonds, Series 2016, in an amount not to exceed \$2,565,000.00.

**VOTE:** 4 - 3 Carried

**No:** Councilor at Large, Position 1 William Benton  
Councilor at Large, Position 2 Amanda J. Barta  
Councilor, District 3 Alice Jozwiak

7. **Consideration of and action on Ordinance No. 2016-28, an Ordinance approving and adopting the City of Rosenberg, Texas, Budget for the Fiscal Year 2016-2017; making appropriations for the City for such year as reflected in said Budget; and making certain findings and containing certain provisions relating to the subject.**

**EXECUTIVE SUMMARY**

Ordinance No. 2016-28 provides City Council with the opportunity to consider adopting the FY2016-2017 Budget as prepared and presented by staff and adjusted by City Council during the recent Budget workshops.

The proposed operating Budget as shown in the Combined Budget Summary, or Exhibit "A" of Ordinance No. 2016-28, appropriates those monies necessary to fund City operations, including general operations, water and wastewater operations, debt service obligations, special revenue fund operations, internal service fund operations and capital outlays for FY2016-2017.

This Budget, as presented in Exhibit "A", is based on the proposed FY2016-2017 Budget that was originally presented to City Council on July 26, 2016, and includes the changes presented in the attached memorandum dated August 30, 2016.

Staff recommends approval of Ordinance No. 2016-28, providing for and adopting the City of Rosenberg, Texas, Budget for the Fiscal Year 2016-2017.

**KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Councilor Benton stated he will oppose this and believes the tax rate could be reduced with a tighter budget.

**ACTION**

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 2 Susan Euton to approve Ordinance No. 2016-28, an Ordinance approving and adopting the City of Rosenberg, Texas, Budget for the Fiscal Year 2016-2017; making appropriations for the City for such year as reflected in said Budget; and making certain findings and containing certain provisions relating to the subject. A vote was taken by a show of hands.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

8. **Consideration of and action on ratification of adoption of a Budget that will require raising more revenue from property taxes than in the previous year.**

**EXECUTIVE SUMMARY**

In accordance with the requirements of Section 102.007 of the Texas Local Government Code, the City Council is required to have a separate vote to ratify the adoption of a Budget that will require raising more revenue from property taxes than in the previous year. The City anticipates the collection of more property tax revenue than in the previous year and the FY2017 budget, as adopted, also anticipates this increase in property tax revenues.

In order to ratify the adoption of a Budget that will raise more revenues from property taxes than the previous year, it will be necessary for City Council to indicate such ratification with the following motion:

**Motion: I move to ratify the adoption of the 2016-2017 Budget that will require raising more revenue from property taxes than in the previous year.**

**KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Councilor Benton stated he will oppose this item.

**ACTION**

Motion by Councilor, District 4 Lynn Moses, seconded by Councilor, District 2 Susan Euton to ratify the adoption of the 2016-2017 Budget that will require raising more revenue from property taxes than in the previous year.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

9. **Consideration of and action on Ordinance No. 2016-29, an Ordinance providing for the levy and collection of ad valorem taxes of the City of Rosenberg, Texas, for the Year 2016; providing for the date on which such taxes shall be due and payable; providing for penalty and interest on all taxes not timely paid; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.**

**EXECUTIVE SUMMARY**

Staff recommends the adoption of Ordinance No. 2016-29. This Ordinance levies an ad valorem tax rate of \$0.47 per \$100 valuation for Tax Year 2016, the collection of which falls in FY2016-2017, beginning October 01, 2016, and ending September 30, 2017. The maintenance and operation tax rate will be set at \$0.255662 per \$100 valuation and the debt service tax rate will be set at \$0.214338 per \$100 valuation.

To approve Ordinance No. 2016-29, it will be necessary for City Council to consider three (3) separate motions in accordance with specific statutory requirements applicable to the adoption of the tax rate, and indicated as follows:

1. **Motion: I move that a tax rate of \$0.255662 for the purpose of funding the maintenance and operation expenses of the City be approved;**
2. **Motion: I move that a tax rate of \$0.214338 for the purpose of paying the accruing interest and to provide a sinking fund for the payment of the indebtedness of the City be approved; and,**
3. **Motion: I move that the property tax rate be increased by the adoption of a tax rate of \$0.470000 per \$100 valuation, which is effectively a 6.43 percent increase in the tax rate, and I move to adopt Ordinance No. 2016-29.**

**KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- There were no questions or comments from the Council.

**ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 4 Lynn Moses that a tax rate of \$0.255662 for the purpose of funding the maintenance and operation expenses of the City be approved.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

**ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 1 Jimmie J. Pena that a tax rate of \$0.214338 for the purpose of paying the accruing interest and to provide a sinking fund for the payment of the indebtedness of the City be approved.

**VOTE:** 7 - 0 Carried - Unanimously

## **ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta that the property tax rate be increased by the adoption of a tax rate of \$0.470000 per \$100 valuation, which is effectively a 6.43 percent increase in the tax rate, and I move to adopt Ordinance No. 2016-29. A vote was taken by a show of hands.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

10. **Consideration of and action on Ordinance No. 2016-30, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2016; awarding the sale thereof; and containing matters incident thereto.**

## **EXECUTIVE SUMMARY**

On July 19, 2016, City Council adopted Resolution No. R-2182 authorizing publication of Notice of Intention to issue Certificates of Obligation, in an aggregate principal amount not to exceed \$10,000,000 for improvements to Bryan Road and Spacek Road and utility improvements including a lift station and sanitary sewer lines along Bryan Road and Spacek Road. The notice was published on July 29, 2016, and August 5, 2016, as required, with an amount not to exceed \$10,000,000.00.

Ordinance No. 2016-30 authorizes the issuance of the Certificates and approves the results of the bidding process and sale of the Certificates. The Ordinance also sets forth the procedures for the finalization of the sale and delivery of the proceeds to the City. Financial Advisor Joe Morrow of FirstSouthwest and Bond Counsel, Marcus Deitz with Orrick, Herrington & Sutcliffe LLP, will be present at the meeting to review the results of the sale with City Council.

Staff recommends approval of Ordinance No. 2016-30, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2016; awarding the sale thereof; and containing matters incident thereto.

## **KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Joe Morrow, Financial Advisor, First Southwest presented the sale of the certificates of obligation with a report given to each Councilor.
- Mr. Morrow reported the seven bidders:
  - FTN Financial Capital Markets, 1.887681%
  - Raymond James & Associates, Inc., 1.978339%
  - Piper Jaffray, 1.996456%
  - Janney Montgomery Scott, LLC, 2.001971%
  - Robert W. Baird & Co., Inc., 2.028597%
  - Coastal Securities, Inc., 2.099736%
  - Frost Bank, 2.191324%
- Mr. Morrow explained the strong management, with strong financial policies and practices under the financial management assessment methodology and a strong institutional framework score for Texas municipalities.
- Councilor Benton asked about the funding for Bryan Road.
- Joyce Vasut explained these funds will be used to match the County's mobility funds for this purpose.

## **ACTION**

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 2 Susan Euton to approve Ordinance No. 2016-30, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2016; awarding the sale to: FTN Financial Capital Markets at a rate of 1.887681% and containing matters incident thereto.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

11. **Consideration of and action on Ordinance No. 2016-31, an Ordinance amending the Code of Ordinances by amending Section 25-137 of Article VI of Chapter 25 thereof entitled "Schedule of Fees"; providing for revised infrastructure plan review and inspection fees to be established by resolution of City Council; providing a penalty in an amount as provided in Section 1-13 of this Code for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; providing for severability; and providing for an effective date.**

**EXECUTIVE SUMMARY**

Plan Review Fees and Infrastructure Inspection Fees are paid by developers and applicants who seek approval to construct improvements under the Code of Ordinances, Chapter 25 (Subdivisions). The City is seeking to revise these fees and, as a house-keeping measure, move the schedule of fees for these services to the City's Schedule of Fees. The following Agenda item will present staff's recommendation for the change in fee structure.

Proposed Ordinance No. 2016-31 will revise Section 25-137 of Chapter 25 (Subdivisions) to indicate that the fees associated with land plans, plats, variances, and infrastructure improvements shall be provided for in a schedule of fees established by resolution of the City Council. The following Agenda item for Resolution No. R-2223 will address the specific schedule of fees related to Chapter 25 and staff's recommendation for revisions.

Staff recommends approval of Ordinance No. 2016-31.

**KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Councilor Benton asked what brought this item to the Council's attention.
- Ms. Vasut explained the expenses for services are greater than the developer's charges and this is a way that the fees charged will cover the cost to the City.

**ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Ordinance No. 2016-31, an Ordinance amending the Code of Ordinance by amending Section 25-137 of Article VI of Chapter 25 thereof entitled "Schedule of Fees"; providing for revised infrastructure plan review and inspection fees to be established by resolution of City Council; providing a penalty in an amount as provided in Section 1-13 of this Code for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; providing for severability; and providing for an effective date.

**VOTE:** 7 - 0 Carried - Unanimously

12. **Consideration of and action on Resolution No. R-2223, a Resolution regarding a schedule of fees for plan review and inspections related to land plans, plats, variances, and infrastructure improvements.**

**EXECUTIVE SUMMARY**

Plan Review Fees and Infrastructure Inspection Fees are paid by developers and applicants who seek approval to construct improvements under the Code of Ordinances, Chapter 25 Subdivisions.

Plan Review Fees are currently based on a five (5) tier fee structure applied to the construction costs of the project. The proposed changes recommend a two (2) tier fee structure consisting of the following:

- \$50,000.00 construction costs or less - 1.0% of construction costs
- \$50,000.01 construction costs or greater - \$500 for the first \$50,000.00 plus 0.5% of construction costs over \$50,000.00

Infrastructure Inspection Fees are currently based on a three (3) tier fee structure applied to construction costs of the project. The proposed changes would be a fee equal to one percent (1%) of construction costs.

The proposed changes include an increase in the assessed fees. As discussed during the budget process, these changes are necessary to cover the cost for providing plan reviews and infrastructure inspections. The City's costs associated with these services are currently nearly double the fees collected, causing a negative affect on the General Fund. The proposed increase is approximately a 51.5% increase on smaller projects less than \$50,000 and approximately an 80% increase on larger projects over \$50,000.

The previous Agenda item for Ordinance No. 2016-31 revised the City's Code of Ordinances to move the fees associated with plan review and inspections for improvements from Chapter 25 of the Code of Ordinances. Proposed Resolution No. R-2223 seeks to revise these fees and move them to the City's Schedule of Fees, intended to be a one-stop reference for all City fees and charges. A redlined copy of Exhibit "A" to Resolution No. R-2223 showing the proposed fee revisions is attached for review.

Staff recommends approval of Resolution No. R-2223 as presented.

#### **KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.
- Councilor Benton asked if these fees are in line with neighboring cities.
- Joyce Vasut replied these fees were in line with neighboring cities.

#### **ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Resolution No. R-2223, a Resolution regarding a schedule of fees for plan review and inspections related to land plans, plats, variances, and infrastructure improvements.

**VOTE:** 7 - 0 Carried - Unanimously

13. **Consideration of and action on Resolution No. R-2221, a Resolution awarding Bid No. 2016-20 for Janitorial Services; and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, a General Services Contract related thereto, and/or all necessary documentation regarding same.**

#### **EXECUTIVE SUMMARY**

On August 07, 2016 and August 14, 2016, a request for quotes for janitorial services was published in the newspaper. Staff also distributed the bid documents and technical specifications to nineteen (19) vendors on the City's janitorial vendor list. On Wednesday, August 24, 2016, bids were received and opened for the City of Rosenberg (City) Janitorial Services Contract. A total of seven (7) bids were received, as shown on the attached bid summary form.

C&S Janitorial submitted the lowest base total bid in the amount of \$44,100.00. This bid is approximately 1% lower than the second lowest bid and about \$1,000 more than the lowest bid in 2015, when the bid specs included only five (5) buildings instead of six (6). The second lowest bid was submitted by Agape Cleaning Enterprises, Inc., for a total bid of \$48,063.48.

For City Council's review and consideration, the proposals from C&S Janitorial and Agape Cleaning Enterprises, Inc., have been provided.

While C&S Janitorial is the lowest bid, staff is currently checking additional references for the two lowest bidders and will provide a recommendation at the City Council meeting. Should City Council award this bid, the proposal will be attached to Resolution No. R-2221 as Exhibit "A".

#### **KEY DISCUSSION POINTS**

- Joyce Vasut read the Executive Summary.

### **ACTION**

Motion by Councilor, District 4 Lynn Moses, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2221, a Resolution awarding Bid No. 2016-20 for Janitorial Services to C & S Janitorial Services, Inc. with the alternate bid options totaling \$46,985.00; and authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, a General Services Contract related thereto, and/or all necessary documentation regarding same.

**VOTE:** 7 - 0 Carried - Unanimously

#### **14. Consideration of and action on appointments to the City's Charter Review Committee.**

### **EXECUTIVE SUMMARY**

At the July 26, 2016 Workshop Meeting, City Council directed staff to advertise for a Charter Review Committee to be composed of five (5) citizens and two (2) City Council Members.

The advertisement was published in the Fort Bend Herald newspaper on August 7, 14, and 21, 2016, and on the City's website. The deadline for applications was Friday, August 26, 2016. The applications were sent to City Council under separate cover.

Included is the list of citizen applications received. City Council will also need to appoint two (2) Council Members to serve on this committee.

### **KEY DISCUSSION POINTS**

- Linda Cernosek read the Executive Summary.
- Councilors Moses, Benton, and Barta expressed interest in serving on this Committee.
- After some discussion, Councilor Benton withdrew his name from the Councilors interested in serving on this Committee.
- Mayor McConathy congratulated Councilors Moses and Barta for their appointment to the Committee.
- A consensus of the Council and those involved in the Committee decided to meet on the third Tuesday of the month at 5:00 p.m. to have City Attorney Scott Tschirhart present for Committee meetings.
- Mayor McConathy said the Committee members would receive a communication from the City Secretary with the details for these meetings.

### **ACTION**

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 1 William Benton to delay this appointment, table this item, and advertise for additional applicants.

**VOTE:** 2 - 5 Failed

**VOTE: Yes:** Councilor at Large, Position 1 William Benton  
Councilor, District 1 Jimmie J. Pena

### **ACTION**

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 3 Alice Jozwiak to appoint the five applicants received: Teodoro (Ted) Garcia, Richard Olson, Wayne Poldrack, Carolyn Seiler, and James Urbish to the City's Charter Review Committee.

**VOTE:** 7 - 0 Carried - Unanimously

#### **15. Consideration of and action on Amended Resolution No. R-2207, an amended Resolution directing Interim City Manager, or the Interim City Manager's designee, to execute all documents to institute eminent domain proceedings for the acquisition of a 0.1120 of an acre tract (4,877 square feet) and a 0.0023 of an acre tract (100 square feet) for a permanent public street right of way and appurtenant easement, both tracts being out of a certain tract of land conveyed to Sally Jane Cohen, as recorded in Volume 2608, Page 1397 of the Fort Bend County Deed Records (F.B.C.D.R.), located in the Eugene Wheat Survey, Abstract No. 396, City of Rosenberg, Fort**

**Bend County, Texas; property owned and claimed by Sally Jane Cohen; and directing the City Attorney to initiate condemnation proceedings.**

#### **EXECUTIVE SUMMARY**

This item amends Resolution No. R-2207 previously approved at the August 16, 2016 City Council Meeting. The amended Resolution includes acquisition of a 0.0023 acre tract of land for an appurtenant easement that was not previously included in Resolution No. R-2207.

Staff recommends approval of Amended Resolution No. R-2207.

#### **KEY DISCUSSION POINTS**

- John Maresh read the Executive Summary.
- Councilor Jozwiak stated this is part of what kept Bryan Road project from moving forward in the past.
- Councilor Benton stated that he will oppose this Resolution.

#### **ACTION**

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 4 Lynn Moses to approve Amended Resolution No. R-2207, an amended Resolution directing Interim City Manager, or the Interim City Manager's designee, to execute all documents to institute eminent domain proceedings for the acquisition of a 0.1120 of an acre tract (4,877 square feet) and a 0.0023 of an acre tract (100 square feet) for a permanent public street right of way and appurtenant easement, both tracts being out of a certain tract of land conveyed to Sally Jane Cohen, as recorded in Volume 2608, Page 1397 of the Fort Bend County Deed Records (F.B.C.D.R.), located in the Eugene Wheat Survey, Abstract No. 396, City of Rosenberg, Fort Bend County, Texas; property owned and claimed by Sally Jane Cohen; and directing the City Attorney to initiate condemnation proceedings.

**VOTE:** 6 - 1 Carried

**No:** Councilor at Large, Position 1 William Benton

16. **Hold Executive Session to hear and evaluate a complaint against employee(s) pursuant to Section 551.074(a)(2), and to receive legal advice regarding said complaint as well as to receive legal advice regarding Council duties pursuant to City Charter Section 3.07, and to receive advice on legal matters regarding pending or contemplated litigation regarding Texas Department of Transportation v. City of Rosenberg condemnation proceedings and the dispute with Imperial Performing Arts, Inc., all pursuant to Section 551.071 of the Texas Government Code; to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Texas Government Code Section 551.072; to deliberate the appointment, employment and duties of the Municipal Court Judge pursuant to Section 551.074 of the Texas Government Code; and, to discuss economic development negotiations pursuant to Section 551.087 of the Texas Government Code.**

#### **ACTION**

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 4 Lynn Moses to adjourn to Executive Session.

**VOTE:** 7 - 0 Carried - Unanimously

17. **Adjourn Executive Session, reconvene Regular Session, and take action as necessary as a result of Executive Session.**  
Mayor McConathy reconvened Regular Session at 10:34 p.m.

**ACTION**

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta to authorize the Interim City Manager to negotiate and execute documents, for and on behalf of the City of Rosenberg, for the purchase of certain real property associated with the Bryan Road Realignment and Expansion Project, more particularly described as Parcel #28, a certain 1.1485 acre tract of land being out of Lot 10, Meyer & Pleak Subdivision, as recorded in Volume 36, Page 330, Fort Bend County Deed Records (F.B.C.D.R.), and also out of a certain tract of land conveyed to PYP YOG Foundation, Inc. NFP, as recorded in File No. 2015000476 of the Official Public Records of Real Property of Fort Bend County, TX (O.P.R.R.P.F.B.C., TX), located in the Robert E. Handy Survey, Abstract No. 187, City of Rosenberg, Fort Bend County, Texas.

**VOTE:** 7 - 0 Carried - Unanimously

**ACTION**

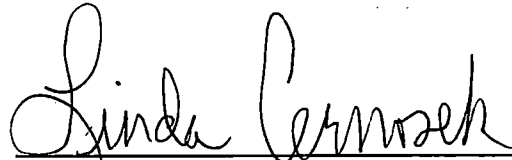
Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 1 William Benton to offer the Municipal Court Judge position to Kelly Crow.

**VOTE:** 7 - 0 Carried - Unanimously

18.

**Adjournment.**

There being no further business, Mayor McConathy adjourned the Regular City Council Meeting at 10:35 p.m.

  
Linda Cernosek, TRMC, City Secretary